

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RODNEY FUENTES,

Plaintiff,

v.

Case No.: _____

ERGO GENISES LLC,

Defendant.

NOTICE OF REMOVAL

COMES NOW Defendant ErgoGenesis Workplace Solutions, LLC, incorrectly identified in the Complaint as Ergo Genises LLC, by and through its counsel, Lewis Brisbois Bisgaard & Smith LLP (Gregory L. Biehler), and pursuant to the provisions of 28 U.S.C. §1441, hereby removes Cause Number D-202-CV-2020-03019, filed in the Second Judicial District Court for the County of Bernalillo, State of New Mexico. As grounds for removal, Defendants state the following:

I. INTRODUCTION AND BACKGROUND

1. On May 11, 2020, Plaintiff filed his Complaint for damages alleging defective product, strict products liability, failure to warn, and negligence.
2. Pursuant to 28 U.S.C. § 1446(b) this Notice of Removal is timely as the Complaint was delivered to Defendant by the United States Postal Service on May 30, 2020 (*see* Exhibit A, USPS Proof of Delivery).
3. Pursuant to 28 S.C. § 1332, this action is removable as the amount in controversy exceeds seventy-five thousand dollars (\$75,000), based upon Plaintiff's surgery and chronic pain to his left wrist, elbow and shoulder, and allegations of severe chronic pain for at least two years

since 2017 with wage losses since December of 2017; and because there is complete diversity of citizenship of the parties.

Diversity of Citizenship Exists Between the Parties

4. Plaintiff is a resident of the State of New Mexico. *Paragraph 1 of Complaint.*
5. ErgoGenesis Workplace Solutions, LLC is a limited liability company domiciled in the state of Texas with none its members being residents of the state of New Mexico.
6. Attached hereto as Exhibit B are the pleadings filed to date in the state court action:

Complaint, filed May 11, 2020;
Arbitration Certificate, filed May 11, 2020; and
Return of Summons, filed June 10, 2020.

WHEREFORE, Defendant ErgoGenesis Workplace Solutions, LLC gives notice that the above-entitled action is removed from the State of New Mexico Second Judicial District Court to this Court.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Gregory L. Biehler

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was e-mailed to counsel for Plaintiff this 29th day of June, 2020 as follows:

Narciso Garcia, Jr.
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/s/ Gregory L. Biehler
Gregory L. Biehler